S.B.Cr.Misc. Bail App. No. 408/2006
IN
S.B.CRIMINAL APPEAL NO. 358/2006

Date of order : 26/5/2006

HON'BLE MR.H.R.PANWAR, J.

Mr. R.K.Charan for the applicant-appellant.
Mr. J.P.S.Choudhary, Public Prosecutor.

Heard. Perused the judgment and order impugned and record of the trial court.

It is contended by the learned counsel for the applicant-appellant that Malkhana Register has not been exhibited. Learned counsel further contended that the sample of contraband opium which was sent to the Forensic Science Laboratory returned and thereafter there is no evidence as to whether it was again sent to Forensic Science Laboratory.

Admit. Issue notice.

Mr. J.P.S.Choudhary, P.P. accepts notice on behalf of State.

Heard learned counsel for the parties on the application for suspension of sentence.

It is contended by the learned counsel for the applicant-appellant that the prosecution case suffers from various infirmities as stated by him above and that the contraband opium recovered is much less than commercial quantity i.e. 600 grams and during trial the applicant was on bail.

Having regard to the facts and circumstances of the case and looking to the short sentence, I think it just and proper to suspend the substantive sentence of imprisonment and

sentence of fine beyond Rs. 10,000/- awarded to the accused appellant-applicant.

Accordingly, the bail application filed under Sec. 389 Cr.P.C. is allowed and it is ordered that the substantive sentence of imprisonment and sentence of fine beyond Rs. 10,000/- passed by the learned Special Judge, NDPS Act Cases, Pratapgarh, vide judgment dt.31.3.2006 in Special sessions case No.05/2004 against applicant-appellant Gori Lal S/o Dalla shall remain suspended till final disposal of the aforesaid appeal provided he executes a personal bond in the sum of Rs. 20,000/- with two sureties of Rs.10,000/- each to the satisfaction of the learned trial Judge for his appearance before this court on 13/7/2006 and whenever ordered to do so with the incorporation in the bond that as and when he will shift his place of residence, he will intimate to this Court and his lawyer about his new place of residence.

(H.R.PANWAR),J.

RP